IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5279 OF 2000

Smt.Gulshan Farookh Pathan ..Petitioner.

V/s.

Dawood Kasam & Ors. ..Respondents.

Mr.V.G. Peshave for petitioner.

Mr.N.K.Iyer for respondent No.1 - Absent.

CORAM : R.V.MORE, J.

DATED : 29TH JUNE, 2007.

P.C. :-

The petitioner is a trustee of the Trust by name Masjid Devasthan Hivare-Narayangaon. On 17/2/1991 the respondent had along with other trustees came to be removed on an application filed by the petitioner under section 41-D of the Bombay Public Trust Act, 1950 (‘the B.P.T. Act’ for short) being application No.19/1991. This order under section 41-D of the B.P.T. Act was challenged in the District Court, Pune by filing Misc. Application No.200/1995 and since the appeal came to be dismissed in default, the order of the Asstt. Charity Commissioner has become final.

2. The petitioner and one Asif Pathan filed an

Application No.17/1995 under section 41-E of the B.P.T. Act against the alleged trustees, including the respondent No.1 for injunction. The injunction came to be granted by the Joint Charity Commissioner 3/8/1996. This injunction order is also confirmed by the District Court on 29/4/1997 in Misc. Application No.484/1996. The respondent No.1 along with others have challenged the order of the District Court by filing Writ Petition No.3218 of 1997. The said Writ Petition is also dismissed for default today i.e. 29/06/2007.

3. The Deputy Charity Commissioner on 5/1/2000 accepted the Change report filed by the respondent No.1 claiming to be the trustee of the abovesaid Trust in spite of the injunction order mentioned above. This order of acceptance of change report came to be challenged by filing Misc. Application No.574/2000 in the District Court, Pune by the petitioner. The petitioner also filed stay application at Exhibit 5 in the aforesaid Misc. Application, which came to be rejected by the District Court by the impugned order dated 24/8/2000.

4. The learned Single Judge of this Court on 18/4/2001 admitted this Writ Petition and granted interim relief in terms of prayer clause (c) till

hearing and disposal of the petition.

5. The learned Deputy Charity Commissioner accepted the change report of the respondent No.1 in spite of injunction granted under section 41-E of the B.P.T. Act by the Joint Charity Commissioner. The Misc. Application No.574/2000 filed by the petitioner challenging the above acceptance of the change report is pending in the District Court at Pune. The order of acceptance of the Change Report is already stayed by this Court by granting interim relief on 18/4/2001. In these facts and circumstances, I am of the opinion that the petition can be disposed of by directing the District Judge, Pune to dispose of the Misc. Application No.574/2000 as expeditiously as possible and keeping the operation of the interim order passed by this Court on 18/4/2001 in force during the pendency of the said application. In view of the above, I pass the following order.

i. The District Judge, Pune is directed to hear and dispose of the Misc. Application No.574/2000 filed by the petitioner against the respondent No.1 as expeditiously as possible and in any case within a period of 6 months from the date of receipt of this order.

ii. The District Court to dispose of the Misc. Application No.547/2000 independently on its own merits without being influenced by this order or the impugned order.

iii. The stay granted by this Court on 18/4/2001 in this Writ Petition will remain operative till the disposal of the Misc. Application No.574/2000.

iv. No order as to costs.

(R.V.MORE, J.)